competition with SBC. While there may be some change in the manner in which these services would be provided following consummation of the merger,[44] they do not present any significant competitive implications for the merger as a whole.[45]

To the contrary, the Applicants believe that the merger will produce several procompetitive benefits in the long distance market. First, SBC's out-of-region long distance service will benefit from SNET's expertise and in the provision of long distance service. In less

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44 For example, to the extent that any such service is being provided to the branch offices of SAI's Connecticut business customers within any of SBC's in-region states at the time the merger is consummated, it would be terminated or otherwise brought into compliance with applicable law.

45 Subsidiaries of SBC and SNET also issue calling cards to their customers which can be used in virtually all states where these customers travel. However, neither company markets, nor had any plans to market, long distance service in the other company's territory. For example, the only tariff accompanying SBC's recently-withdrawn application for authorization to provide intrastate, interexchange service within Connecticut was solely for calling card service. Thus, any provision of originating long distance service by either company in the other company's territory is the fortuitous consequence of the use of a calling card by a customer when traveling in the other's territory. Moreover, when SBC's customers use their calling cards for interexchange calls within any of SBC's in-region states the calls are not handled by an SBC long distance company, but by an unaffiliated interexchange carrier and the calls are branded as such. SNET will, as appropriate, implement a similar approach when its customers use their calling cards within SBC's in-region states.

than three years, because of its outstanding performance as a long distance carrier,[46] SAI has acquired approximately 923,000 long distance customers, which represents a significant achievement in a relatively short period of time. Second, SBC'S out-of-region long distance customers will benefit from the billing capabilities SNET has developed for its long distance service, which permits billing in increments as small as one second. Finally, the merger will enable SAI to take advantage of SBC's superior purchasing power for long distance minutes resold by SAI, which will lower its costs of providing long distance service.

3. Absence of Adverse Competitive Effects

The benefits described above will be realized without any adverse effects on competition in any product or geographic market, as the Commission found in approving the SBC/Telesis merger based facts similar to those present here. In this merger:

- there are no overlaps or adjacencies between the areas in which the ILEC subsidiaries of SNET and SBC provide local exchange and exchange access services;
- unlike the circumstances present in Bell Atlantic/NYNEX, neither SBC nor SNET had any plans to market any services in any of the

46 In 1997, J.D. Power and Associates named SNET as the long distance carrier with the highest ranking among mainstream long distance users.

other company's service areas prior to the merger;[47]

- the Applicants' cellular systems operate in different MSAs and RSAs and, where they are adjacent, their combination will enhance the merged company's ability to serve its customers and compete with the expanding list of CMRS providers with larger calling scopes in New England and adjacent areas; and

- the Applicants market their long distance services in different areas and, as described above, the combined company will be better able to compete outside of SBC's in-region states with the myriad long distance competitors it faces.

In sum, neither SBC nor any of its affiliates provides services, or planned to provide any services, in competition with SNET or any of its affiliates in any geographic area or line of business, and vice versa.

(a) <u>CMRS Service</u>

There are no competitive concerns with respect to the CMRS authorizations that are the subject of these transfer of control applications. Neither SBC nor SNET operates any CMRS system in the other company's area, and the merger will not cause any reduction in actual or potential competition. To the contrary, as described above, by allowing them to combine their adjacent operations and permitting them to expand their calling

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47 <u>See</u> SBC Growth Profile, Attachment F to this Exhibit, at p. 34, regarding SBC's focus and plans.

scopes and improve their service offerings, the merger of SBC and SNET will promote competition in the CMRS market areas currently served by their subsidiaries and strengthen their ability to compete with the many other incumbent and new CMRS providers in these areas, including Bell Atlantic, AT&T, Sprint, Omnipoint and Nextel.[48]

(b) Local Exchange and Exchange Access

SBC does not provide and has never had any plans to provide local exchange or exchange access service in Connecticut, where there are already many competitive providers, including several very large companies as a result of the market-opening activities undertaken pursuant to Connecticut law and the 1996 Act. Rather, SBC has concentrated its out-of-region activities and new ventures in markets where it has existing facilities, customers, and brand name recognition; specifically, in those areas where it provides cellular service, which does not include Connecticut.[49]

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48 As noted above, the Commission has previously recognized the benefits which can flow from such clustering of adjacent CMRS systems in its approval of other cellular transfers, most notably the merger of Bell Atlantic Mobile and NYNEX Mobile, the product of which is SBC's and SNET's largest and most pervasive CMRS competitor in New England and adjacent areas.

49 For example, in Rochester, New York, pursuant to a
[Footnote continued on next page]

Similarly, SNET has never planned to provide local exchange or exchange access service in any of the seven in-region states in which SWBT, Pacific Bell or Nevada Bell operate.

Thus, the merger will not reduce the number of carriers actually providing, or planning to provide, local exchange service in Connecticut. Rather, the merger is likely to help foster competition in Connecticut in several ways, by expanding the resources available to SNET in order to enable it simultaneously to continue to undertake its market-opening activities, to provide new services to its customers, and to expand and upgrade its networks.

(c) Long Distance Service

The merger will not eliminate any competition in the provision of long distance service between SBC and SNET since neither SBC nor SNET markets, nor had any plan to market, such services in the other's territory. SBC does not market long distance service in its in-region states or in Connecticut. Similarly, SNET does

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[Footnote continued from previous page]
waiver granted by the Commission, SBC subsidiaries have been experimenting with the provision of competitive local exchange service, as an adjunct to SBMS's cellular service in Rochester. That experiment does not, however, have any applicability for Connecticut, since SBC has no cellular or other facilities in Connecticut.

not market long distance service outside of Connecticut. Thus, there is no possible adverse impact on competition in any long distance market as a result of the merger. Rather, the merger is likely to produce a number of procompetitive benefits both for SBC's out-of-region long distance business and SAI's long distance business in Connecticut, as described above.

* * *

In addition to the foregoing categories of services -- which represent SNET's principal lines of business, and should, therefore, be the principal focus of the Commission's review of this merger -- the Applicants also provide other, competitive telecommunications services, such international and video services. As in the case of CMRS, local exchange and long distance services, the merger will not produce any anticompetitive effects in these additional service areas.

° <u>International Services</u>

SNET, through its subsidiaries, currently holds four Section 214 authorizations to provide international service, with respect to which the Applicants are simultaneously seeking to transfer control to SBC. Subsidiaries of SBC also hold such authorizations. However, neither SNET nor SBC markets international services to customers in the other company's territory, nor did they ever have any plans to do so. In particular, SBC has never contemplated offering such service in Connecticut. Thus, the merger will not eliminate any actual or potential competition in this market, in which there are already hundreds of carriers providing such services.

° <u>Video Services</u>

The merger will not adversely affect competition in the market for multichannel video programming distribution ("MVPD"), since neither SBC nor SNET has, nor planned to have, any MVPD operations in the other company's territory. SNET Personal Vision, Inc. operates a cable television system in competition with the incumbent MVPD providers in Connecticut, including Cablevision Systems, TCI (which has announced plans to sell its systems to Cablevision), Tele-Media, Comcast, Cox, US West/ MediaOne, Primestar, DirecTV and Echostar/ DISH Network. This merger would simply replace SBC for SNET as the party with ultimate control over SNET's competitive system.

* * *

For the foregoing reasons, the Applicants respectfully request that the Commission promptly and unconditionally approve these transfer of control applications.

VI. Related Governmental Filings

In addition to this filing, SBC and SNET are taking steps to satisfy the requirements of other governmental entities with respect to the merger.

First, the Department of Justice will conduct its own review of competitive aspects of this transaction, pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18A, and the rules promulgated under that Act. On January 22, 1998, SBC and SNET each submitted to the Department of Justice and the Federal Trade Commission a pre-merger notification form and an associated documentary appendix.

Second, the CDPUC will review the transfer of control. On February 20, 1998, SBC and SNET filed with the CDPUC a joint application, pursuant to Section 16-47 of the General Statutes of Connecticut, requesting authorization for SBC to control SNET. In assessing the merger under Section 16-47, the CDPUC will consider: SBC's financial, technical and managerial qualifications; the ability of SNET's three public service companies to continue providing safe, adequate and reliable service following the merger; and, with respect to SNET's telephone companies, the effect of the transaction on the location of SNET's operations and employees.

Finally, in those states that require it, SNET and SBC will undertake the necessary steps to transfer to SBC the state authorizations that SNET has obtained in connection with SNET's provision of interexchange services.

The Applicants fully expect that these reviews by the Department of Justice, the CDPUC and other state commissions will confirm that the merger of SBC and SNET is in the public interest and that there will be no reduction in actual or potential competition as a result of the merger.

VII. Additional Authorizations

In addition to seeking the Commission's approval of the transfers of control of the FCC authorizations covered in these applications, the Applicants are also requesting the additional authorizations described below, and they are simultaneously filing an application for a declaration by the Commission, under Section 212 of the Communications Act and Part 62 of the Commission's Rules, that, upon consummation of the merger, all of SBC's post-merger carrier subsidiaries, (including SWBT, Pacific Bell, Nevada Bell, the SNET Telco and Woodbury), will be "commonly owned carriers."

A. After-Acquired Authorizations

As set forth in the relevant exhibit to each of these transfer of control applications, SNET controls entities which hold a number of FCC authorizations, all of which would be affected by this proposed transaction. While the applications for approval of the transfer of ultimate control of these authorizations are intended to be complete, the licensees involved in this proposed transaction may have on file, and may file for, additional authorizations for new or modified facilities, some of which may be granted during the pendency of these transfer of control applications. Accordingly, the Applicants request that the grant of the transfer of control applications include authority for SBC to acquire control of:

(1) any authorization issued to SNET's subsidiaries and affiliates during the Commission's consideration of the transfer of control applications and the period required for consummation of the transaction following approval;

(2) construction permits held by such licensees that mature into licenses after closing and that may not have been included in the transfer of control applications; and

(3) applications that will have been filed by such licensees and that are pending at the

> time of consummation of the proposed transfer of control.

Such action would be consistent with prior decisions of the Commission.[50]

B. Blanket Exemptions to Cut-Off Rules

Pursuant to Sections 22.123(a), 25.116(b)(3), 90.164(b) and 101.29(c)(4) of the Commission's Rules, the Applicants request a blanket exemption from any applicable cut-off rules in cases where SNET's subsidiaries or affiliates file amendments to pending Part 22, Part 25, Part 90 and Part 101 or other applications to reflect the consummation of the proposed transfer of control. The exemption is requested so that amendments to pending applications to report the change in ownership would not be treated as major amendments requiring a second public notice period. The scope of the transaction between SNET and SBC demonstrates that any ownership changes are not made for the acquisition of any particular pending application, but are part of a larger merger undertaken for legitimate business purposes. The grant of such an exemption would be

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50 See, e.g., SBC/Telesis, supra, 12 FCC Rcd. 2624 at ¶ 93; In re Applications of Craig O. McCaw and American Telephone And Telegraph Co., 9 FCC Rcd. 5836 at ¶ 137 n.300 (1994), aff'd sub nom., SBC Communications Inc. v. FCC, 56 F.3d 1484 (D.C. Cir.), recon. in part, 10 FCC Rcd. 11,786 (1995) ("AT&T/McCaw").

consistent with previous Commission decisions routinely granting a blanket exemption in cases involving large transactions.[51]

C. Unconstructed Systems/Antitrafficking Rules

The overwhelming majority of the FCC authorizations that are the subject of the proposed transfer of control applications consist of constructed facilities. However, certain facilities in the point-to-point microwave service are authorized but not yet constructed. Under Section 101.55(d) of the Commission's Rules, the transfer of control of such facilities does not implicate the Commission's antitrafficking restrictions, because the transfer of these unconstructed facilities is incidental to the larger transaction involving the transfer of control of an ongoing, operating business. Pursuant to Section 101.55(d), this Exhibit and the Plan demonstrate that the proposed transaction is a stock-for-stock exchange based upon the valuation of SNET as a whole. No separate payments are being made with respect to any

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51 See, e.g., Century/PacifiCorp, supra, 1997 WL 640871 at ¶ 45; SBC/Telesis, supra, 12 FCC Rcd. 2624 at ¶ 91; AT&T/McCaw, supra, 9 FCC Rcd. 5836 at ¶ 137; Centel/Sprint, supra, 8 FCC Rcd. 1829 at ¶ 23.

individual FCC authorizations or individual facilities.[52]

VIII. Financial Qualifications

The financial qualifications of SBC and its subsidiaries are well known to the Commission. SBC unquestionably possesses the requisite financial and other qualifications to control the authorizations covered by these applications, and to operate the systems and facilities which are the subject of these authorizations.

Because the acquisition of control of SNET will be accomplished through stock-for-stock merger, no new capital would be required to complete the proposed transaction.

Finally, as demonstrated by the most recent audited financial statement of SBC, for the year ending December 31, 1996, a copy of which appears at Attachment E to this Exhibit, SBC has sufficient capacity to ensure that the continued operation of SNET's systems serve the public interest, convenience and necessity.

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[52] See, e.g., SBC/Telesis, supra, 12 FCC Rcd. 2624 at ¶ 91.

Attachments:

A -- Categories of SNET Authorizations

B -- Agreement and Plan of Merger

C -- Certificated Local Exchange Carriers in Connecticut

D -- Intrastate Toll Carriers in Connecticut

E -- SBC's 1996 Audited Financial Statements

F -- SBC's 1997 Growth Profile

G -- Map and Matrix Regarding Cellular Coverage Areas in New England and

ATTACHMENT A

Authorizations Controlled by SNET

Part 22:	Cellular Radiotelephone Service
Part 25:	Domestic Earth Station (Receive-Only)
Part 63:	International Section 214 Authorizations
Part 90:	Business Radio Service Telephone Maintenance Radio Service
Part 101:	Fixed Point-to-Point Microwave Radio Local Television Transmission Service

ATTACHMENT B

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER

Among

SOUTHERN NEW ENGLAND TELECOMMUNICATIONS CORPORATION,

SBC COMMUNICATIONS INC.

and

SBC (CT), INC.

Dated as of January 4, 1998

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